



[Docket No. OP-1749]

**Potential Modifications to the Federal Reserve Policy on Payment System Risk to Expand Access to Collateralized Intraday Credit, Clarify Access to Uncollateralized Credit, and Support the Deployment of the FedNow Service**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is requesting comment on proposed changes to part II of the Federal Reserve Policy on Payment System Risk (PSR policy) that would expand access to collateralized intraday credit from the Federal Reserve Banks (Reserve Banks) and clarify the eligibility standards for accessing uncollateralized intraday credit from Reserve Banks. These proposed changes build upon the revisions to the PSR policy adopted in 2008 and implemented in 2011, which the Board designed to improve intraday liquidity management and payment flows for the banking system while helping to mitigate the credit exposures of the Reserve Banks from daylight overdrafts. In addition, the Board is requesting comment on changes to part II of the PSR policy to support the deployment of the FedNow<sup>SM</sup> Service (FedNow Service). Relatedly, the Board is proposing to incorporate the Federal Reserve Policy on Overnight Overdrafts (Overnight Overdrafts policy) into the PSR policy.

**DATES:** Comments on the proposed changes must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit comments, identified by Docket No. OP-1749, by any of the following methods:

- Agency website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number in the subject line of the message.

- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at

[www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm](http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm) as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request.

Accordingly, your comments will not be edited to remove any identifying or contact information.

Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on

weekdays. Please make an appointment to inspect comments by calling (202) 452-3684.

**FOR FURTHER INFORMATION CONTACT:** Jason Hinkle, Assistant Director (202-912-7805), Michelle Olivier, Lead Financial Institution Policy Analyst (202-452-2404), Brajan Kola, Senior Financial Institution Policy Analyst (202-736-5683) Division of Reserve Bank Operations and Payment Systems, or Evan Winerman, Senior Counsel (202-872-7578), Legal Division, Board of Governors of the Federal Reserve System. For users of Telecommunications Device for the Deaf (TDD) only, please contact 202-263-4869.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### **A. Intraday Credit in the PSR Policy**

The PSR policy is intended to foster the safety and efficiency of payment and settlement systems.<sup>1</sup> Part II of the PSR policy governs the provision of intraday credit (also known as daylight overdrafts) to depository institutions<sup>2</sup> (institutions) with accounts at the Reserve Banks. In particular, part II of the PSR policy outlines the methods used to provide intraday credit to

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<sup>1</sup> See [https://www.federalreserve.gov/paymentsystems/psr\\_about.htm](https://www.federalreserve.gov/paymentsystems/psr_about.htm).

<sup>2</sup> Depository institutions include commercial banks, savings banks, savings and loan associations, and credit unions.

ensure the smooth functioning of payment and settlement systems, while controlling credit risk to the Reserve Banks associated with intraday credit. To be eligible for intraday credit, the PSR policy requires that an institution be “financially healthy” and have regular access to the discount window.<sup>3</sup> The PSR policy also establishes limits, or “net debit caps,” on the value of an institution’s daylight overdrafts.<sup>4</sup> The Reserve Banks use an ex post system to measure daylight overdrafts in institutions’ Federal Reserve accounts. An institution’s eligibility for intraday credit depends on various factors including the institution’s most recent financial and supervisory information. An institution’s supervisory rating, as well as the ratings of its holding company and affiliate institutions, are key components of the process for determining an institution’s eligibility for intraday credit.<sup>5</sup>

In 2008, the Board approved changes to part II of the PSR policy to encourage greater collateralization of daylight overdrafts, recognizing that collateral reduces credit risk to Reserve Banks.<sup>6</sup> In particular, the 2008 changes amended the PSR policy to state that “the Reserve Banks supply intraday balances and credit predominantly through explicitly collateralized daylight overdrafts to healthy institutions.”<sup>7</sup> In addition, the Board included explicit language that emphasized the role of the Reserve Banks in providing intraday credit to institutions in order to ensure the efficient and effective functioning of the payment system. The Board also adopted

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<sup>3</sup> See section II.D.1 of the PSR policy.

<sup>4</sup> *Id.* The size of an institution’s net debit cap equals the institution’s “capital measure” multiplied by its “cap multiple.” An institution’s capital measure is a number derived from the size of its capital base. An institution’s cap multiple is determined by the institution’s cap category. Under section II.D.2 of the PSR policy, an institution’s “cap category” is one of six classifications: the three self-assessed categories (“high,” “above average,” and “average”); “de minimis;” “exempt-from-filing;” and “zero.”

<sup>5</sup> To assist institutions in implementing part II of the PSR policy, the Federal Reserve has prepared two documents: the Overview of the Federal Reserve’s Payment System Risk Policy on Intraday Credit (Overview) and the Guide to the Federal Reserve’s Payment System Risk Policy on Intraday Credit (Guide). The Guide contains detailed eligibility standards for requesting and maintaining uncollateralized capacity.

<sup>6</sup> See 73 FR 79109 (December 24, 2008). These changes were not fully implemented until 2011.

<sup>7</sup> See section II.B of the PSR policy.

a dual-pricing framework intended to provide a financial incentive to institutions to collateralize their daylight overdrafts. Under the dual-pricing framework, Reserve Banks charge no fee for collateralized daylight overdrafts, but charge a fee of 50 basis points for uncollateralized daylight overdrafts.<sup>8</sup>

In addition to incentivizing institutions to collateralize their daylight overdrafts, the PSR policy allows institutions that might otherwise be constrained by their uncollateralized net debit caps to request collateralized capacity under the “maximum daylight overdraft capacity” (max cap) program.<sup>9</sup> Under the program, an institution’s max cap equals its uncollateralized net debit cap plus its additional collateralized capacity.<sup>10</sup>

Although the PSR policy’s dual-pricing framework encourages institutions to collateralize their daylight overdrafts, collateralized capacity under the max cap program is not currently an option for institutions with lower levels of intraday capacity. Institutions that select the “exempt” or “de minimis” net debit cap categories (which do not require a self-assessment) are ineligible to request collateralized capacity under the max cap program. Likewise, institutions with a voluntary zero net debit cap, and institutions that the Reserve Banks have assigned a zero net debit cap because of their account management or financial condition, cannot request collateralized capacity under the max cap program.

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<sup>8</sup> See section II.C of the PSR policy. Collateral eligibility and margins are the same for PSR policy purposes as for the discount window. See <http://www.frbdiscountwindow.org/> for information on the discount window and PSR collateral acceptance policy and collateral margins.

<sup>9</sup> Section II.E of the PSR policy notes that max caps are “intended to provide extra liquidity through the pledge of collateral by the few institutions that might otherwise be constrained from participating in risk-reducing payment system initiatives.”

<sup>10</sup> See section II.E of the PSR policy. When the Board initially adopted the max cap program in 2001, it recognized that collateral helps reduce risk to Reserve Banks and the public sector. See 66 FR 64419, 64423 (December 13, 2001) (“The Board believes that requiring collateral allows the Federal Reserve to protect the public sector from additional credit risk while providing extra liquidity to the few institutions that might otherwise be constrained.”).

Further, obtaining collateralized capacity under the max cap program requires certain administrative steps from and analysis by requesting institutions. First, institutions must provide a business case outlining their need for collateralized capacity, and must submit a board of directors resolution approving the collateralized capacity at least annually and whenever the institution modifies the amount of requested collateralized capacity.<sup>11</sup> Second, the max cap program is limited to institutions that have already adopted a self-assessed net debit cap, which requires an institution to perform a self-assessment of its creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedures.<sup>12</sup>

In proposing the changes discussed below, the Board recognizes that the extension of intraday credit to institutions on a collateralized basis generally poses less risk to the Reserve Banks and the payment system than the extension of intraday credit on an uncollateralized basis. As such, the removal of some restrictions on access to collateralized intraday credit could improve the effectiveness of Reserve Bank intraday credit as a liquidity tool without a significant increase in credit risk to the Reserve Banks and the payment system.

## **B. FedNow Service and the PSR Policy**

In 2020, the Board approved the FedNow Service, a new 24x7x365 real-time gross settlement service with clearing functionality to support end-to-end instant retail payments in the United States.<sup>13</sup> The FedNow Service will settle funds transfers between FedNow Service

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<sup>11</sup> Section II.E.2 of the PSR policy allows U.S. branches or agencies of foreign banking organizations (FBOs) to use a streamlined procedure for requesting a max cap. An FBO that uses the streamlined procedure is not required to provide a business case for a max cap, nor is it required to obtain a board of directors resolution authorizing a max cap, so long as (a) the FBO has an FBO PSR capital category of “highly capitalized,” and (b) the requested total capacity is 100 percent or less of the FBO’s worldwide capital times the self-assessed cap multiple. *See* section II.D.2 and n. 63 of the PSR policy for a discussion of FBO PSR capital categories.

<sup>12</sup> *See* section II.D.a of the PSR policy and n. 4, *supra*, which discuss cap categories. The high, above average, and average cap categories require a self-assessment.

<sup>13</sup> *See* “Service Details on Federal Reserve Actions to Support Interbank Settlement of Instant Payments,” 85 FR 48522 (August 11, 2020), available at

participants<sup>14</sup> through debit and credit entries to balances in master accounts held at the Reserve Banks. The new service will provide an infrastructure to promote ubiquitous, safe, and efficient instant retail payments in the United States. The FedNow Service will enable credit transfers that support a range of different types of payments for individuals and businesses, and will support the transfer of supplemental information, such as invoices, related to a payment.

The PSR policy currently aligns the calculation of daylight overdrafts and the “business day” with the scheduled operating day for the Fedwire Funds Service.<sup>15</sup> The FedNow Service will have a 24-hour business day, each day of the week, including weekends and holidays. The close of the FedNow Service will align on all calendar days with the close of the Fedwire Funds Service.<sup>16</sup> If the close of the Fedwire Funds Service is extended on any given day, the close of the FedNow Service will also be extended to maintain alignment. Given the continuous, 24-hour nature of the FedNow Service, the opening time will occur immediately after the close of the FedNow Service. In addition, the Reserve Banks will implement a seven-day accounting regime as part of implementing the FedNow Service. Under this framework, an end-of-day balance will be calculated for each day of the week, with transactions occurring on weekends and holidays

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<https://www.federalregister.gov/documents/2020/08/11/2020-17539/service-details-on-federal-reserve-actions-to-support-interbank-settlement-of-instant-payments>. The FedNow Service will be available to customers in 2023 and further details on the timeframe for launch will be announced through established Reserve Bank channels once additional work is completed. *See also* “Federal Reserve updates FedNow<sup>SM</sup> Service launch to 2023,” (February 2, 2021), available at <https://frbsservices.org/news/press-releases/020221-federal-reserve-updates-fednow-service-launch-to-2023.html>.

<sup>14</sup> The term “FedNow Service participants” encompasses those participating institutions that use the FedNow Service to send instant payments involving end users as well as institutions that may only use the FedNow LMT (described below) to make funds transfers for liquidity management purposes to other FedNow Service participants. The term “end users” encompasses individuals and businesses.

<sup>15</sup> The Fedwire Funds Service closes at 7:00:59 p.m. ET and re-opens for the next business day at 9:00 p.m. *See* 84 FR 71940 (December 30, 2019) and 85 FR 61747 (September 30, 2020). The schedule for funds transfers through Fedwire Funds is provided in the Reserve Banks' Operating Circular 6.

<sup>16</sup> 85 FR 48522, 48531. Both the Fedwire Funds and the FedNow Services will close at 7:00:59 p.m. ET. On weekends and holidays, when the Fedwire Funds Service is closed, the FedNow Service close will still align with this closing time.

recorded and reported in the same way as transactions occurring Monday through Friday.<sup>17</sup> End-of-day balances will be reported on Federal Reserve accounting records for each FedNow Service participant on each business day.

Access to intraday credit will be available on a 24x7x365 basis to FedNow Service participants, including those that use the FedNow Service to send instant payments involving end users or that use a liquidity management tool within the service (FedNow LMT) to make funds transfers to other FedNow Service participants.<sup>18</sup> Access to 24x7x365 intraday credit will support the smooth functioning of the FedNow Service (including FedNow LMT).

### **C. Overnight Overdrafts Policy**

Intraday overdrafts occur when an institution has a negative balance in its Federal Reserve account during the Fedwire Funds Service operating day. Overnight overdrafts occur when an institution has a negative account balance at the end of the Fedwire Funds Service operating day. While the PSR policy addresses daylight overdrafts, the Overnight Overdrafts policy addresses overnight overdrafts.

To minimize Reserve Bank exposure to overnight overdrafts, the Overnight Overdrafts policy imposes a penalty fee to discourage institutions from incurring overnight overdrafts.<sup>19</sup> If

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<sup>17</sup> The Board expects that participating institutions will record FedNow Service transactions in their customer accounts according to their own business day and accounting conventions (while still providing immediate access to funds received through the FedNow Service).

<sup>18</sup> 85 FR 48522, 48531-32. The FedNow LMT will enable participants in the FedNow Service to transfer funds between one another to support liquidity needs related to payment activity in the FedNow Service. The tool will also be available to support participants in private-sector instant payment services backed by joint accounts at a Reserve Bank by enabling transfers between the master accounts of such participants and their joint account. The FedNow LMT will be available during specific hours, for example, when such transfers are not currently possible through other Reserve Bank services. Controls related to the FedNow LMT, service terms, eligibility requirements, enrollment processes, and hours of availability will be announced prior to the launch of the FedNow Service through established Reserve Bank communication channels.

<sup>19</sup> See Board of Governors of the Federal Reserve System, “Policy on Overnight Overdrafts,” (Effective July 12, 2012). Available at [https://www.federalreserve.gov/paymentsystems/oo\\_policy.htm](https://www.federalreserve.gov/paymentsystems/oo_policy.htm). The overnight overdraft penalty rate is equal to the primary credit rate plus 4 percentage points (annual rate). There is

an institution has a negative balance at the end of the business day, Reserve Banks apply an overnight overdraft penalty for a 24-hour period. Currently, the penalty fee includes a multiday charge for overnight overdrafts over weekends and holidays. The penalty fee increases by one percentage point for each overnight overdraft after an institution's third overnight overdraft in a rolling 12-month period.

## **II. Discussion of Proposed Changes**

The Board is proposing to modify the PSR policy to expand access to collateralized capacity and reduce the administrative steps associated with requesting collateralized capacity. With these proposed changes, the Board intends to improve intraday liquidity management and payment flows while assisting the Reserve Banks in managing intraday credit risk. The proposed changes also seek to clarify the terms for accessing uncollateralized intraday credit and the circumstances under which an institution may remain eligible for uncollateralized capacity if its holding company or affiliate is assigned a low supervisory rating.

Additionally, the Board is proposing changes to the PSR policy and the Overnight Overdrafts policy to align these policies with the deployment of the FedNow Service and a 24x7x365 payment environment. Relatedly, the Board is proposing to incorporate the Overnight Overdrafts policy as part III of the PSR policy in order to reflect the close relationship between daylight overdrafts and overnight overdrafts in an institution's account.

The Board is also proposing several technical changes and corrections to the PSR policy. These changes are not substantive in nature and reflect current practices that the Reserve Banks use to administer the PSR policy.

While the Board is collectively requesting comment on the proposed changes discussed below, the proposed changes may become effective at different times. The Board intends for the FedNow Service-related changes to the PSR policy and the Overnight Overdrafts policy to come

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also a minimum penalty fee of 100 dollars per occasion, regardless of the amount of the overnight overdraft.

into effect when the Reserve Banks begin processing transactions associated with the FedNow Pilot Program.<sup>20</sup>

#### **A. Access to Collateralized Capacity**

As noted above, while the PSR policy incentivizes collateralization of daylight overdrafts, an institution requesting collateralized capacity above its net debit cap must provide a business case outlining its need and must submit an annual board of directors resolution approving its collateralized capacity. Additionally, collateralized capacity under the max cap program is available only to institutions that have first completed a self-assessment. The Board is proposing amendments to the PSR policy that would expand access to collateralized capacity and reduce the administrative steps associated with requesting collateralized capacity.

##### **1. Expanding access to collateralized capacity**

The Board proposes to amend section II.E of the PSR policy to expand the pool of institutions eligible to request collateralized capacity. Specifically, while the max cap program is currently limited to institutions with self-assessed net debit caps,<sup>21</sup> the Board is proposing to expand the max cap program by allowing institutions with a cap category of “zero,” “exempt,” or “de minimis” to request collateralized capacity from their Reserve Banks. A domestic institution would be eligible to request collateralized capacity if its Prompt Corrective Action (PCA) designation<sup>22</sup> is “undercapitalized,” “adequately capitalized,” or “well capitalized.” Similarly, a U.S. branch or agency of a foreign banking organization (FBO) would be eligible to request

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<sup>20</sup> See “Federal Reserve announces FedNow<sup>SM</sup> Pilot Program Participants,” (January 24, 2021), available at <https://www.frb services.org/news/press-releases/012521-federal-reserve-announces-fednow-pilot-program-participants.html>.

<sup>21</sup> Reserve Banks would require that an institution remain financially healthy and be eligible for regular access to the discount window to qualify for a max cap.

<sup>22</sup> 12 U.S.C. 1831o.

collateralized capacity if its FBO PSR capital category<sup>23</sup> is “undercapitalized,” “sufficiently capitalized,” or “highly capitalized.”

So long as an institution remains at least “undercapitalized,” the institution would remain eligible to request collateralized intraday credit under the max cap program—even if the institution, the holding company, or an affiliate has a “fair,” “marginal,” or “unsatisfactory” supervisory rating.<sup>24</sup> Given the important role that collateral plays in reducing credit risk to Reserve Banks, the Board believes that the eligibility criteria for requesting collateralized capacity should be less restrictive than the criteria for accessing uncollateralized capacity. As a result, some institutions that are not eligible to establish a positive net debit cap would be eligible for collateralized capacity.<sup>25</sup> The Board believes that these proposed changes would provide institutions greater flexibility in managing intraday credit, would assist institutions with liquidity and risk-management planning, and would not materially increase credit risk to Reserve Banks.

## 2. Reducing Administrative Steps

The Board is proposing to simplify the process for requesting and maintaining collateralized capacity under the max cap program. Under the current general procedure for requesting a max cap, an institution requesting collateralized capacity must provide a business case outlining its need for collateralized capacity and must submit an annual board of directors resolution approving its collateralized capacity. The Board believes that simplifying this process

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<sup>23</sup> See section II.D.2 of the PSR policy.

<sup>24</sup> Domestic institutions with a PCA designation of “significantly undercapitalized” or “critically undercapitalized” would not be eligible to request collateralized intraday credit under the max cap program. Similarly, FBOs with an FBO PSR capital category of “intraday credit ineligible” would not be eligible to request collateralized intraday credit under the max cap program.

<sup>25</sup> Section II.B, *infra*, describes proposed changes to the Board’s standards for requesting and maintaining uncollateralized capacity.

would encourage more institutions to obtain collateralized capacity, which could promote further collateralization of daylight overdrafts.

The Board is proposing to eliminate, in most circumstances, the requirement that institutions provide a written business case to their Reserve Banks when requesting collateralized capacity under the max cap program. Specifically, the Board proposes that an institution would need to provide a written business case only if (1) the institution's requested max cap exceeds the institution's capital measure multiplied by 2.25, which is the cap multiple associated with the "High" self-assessed cap category,<sup>26</sup> or (2) the Reserve Bank exercises discretion to require that the institution submit a business case due to recent developments in the institution's condition.

The Board is also proposing to eliminate the requirement that an institution's board of directors submit an annual resolution approving requests for collateralized capacity. Instead, the Board proposes that an institution's board of directors would need to provide a resolution only when the institution initially requests collateralized capacity. Once a Reserve Bank has approved an institution's collateralized capacity, the collateralized capacity would generally remain in place, without the need for further action by the institution, so long as the institution remains at least "undercapitalized." An institution would need to submit a resolution from its board of directors if the institution requests an increase to its previously approved collateralized capacity.

An institution's collateralized capacity, on any given day, will continue to equal the value of collateral the institution has pledged to the Reserve Bank, not to exceed the difference between the institution's max cap and its net debit cap.<sup>27</sup> An institution seeking to increase its max cap by pledging additional collateral to its Reserve Bank must request and receive approval from its Reserve Bank. The Board is not proposing any other changes to the process for obtaining collateralized capacity under the max cap program.

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<sup>26</sup> See n. 4, *supra*, for a discussion of cap categories and cap multiples.

<sup>27</sup> See n. 74 of the PSR policy.

## B. Clarifying Access to Uncollateralized Capacity

The Board is proposing to amend section II.D of the PSR policy to clarify the terms under which institutions would be eligible to maintain access to their uncollateralized intraday credit capacity. Currently, the PSR policy does not detail when an institution can request and maintain uncollateralized capacity; it states only that “[a]n institution must be financially healthy and have regular access to the discount window in order to adopt a net debit cap greater than zero.”<sup>28</sup> Separately, however, the Board’s Guide to the PSR policy establishes more detailed eligibility standards for requesting and maintaining uncollateralized capacity. The Board is proposing to simplify these eligibility standards and incorporate them directly into the PSR policy.

The Board proposes to clarify in the PSR policy that an institution’s eligibility to adopt and maintain a positive net debit cap depends on an assessment of its creditworthiness, which results from the institution’s (1) PCA designation or FBO PSR capital category,<sup>29</sup> and (2) most recent supervisory ratings. Specifically, the Board would incorporate into the PSR policy the following table to clarify when institutions can request a positive net debit cap.

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<sup>28</sup> See section II.D.1 of the PSR policy. Institutions that may pose special risks to the Federal Reserve, such as those that are not eligible for regular access to the discount window, those incurring daylight overdrafts in violation of the Federal Reserve’s PSR policy, or those in weak financial condition, are generally assigned a zero cap.

<sup>29</sup> See section II.D.2 of the PSR policy. Reserve Banks use information primarily from the Capital and Asset Report for Foreign Banking Organizations (FR Y-7Q) in order to determine an institution’s FBO PSR capital category. U.S. branches and agencies of FBOs based in jurisdictions that have not implemented capital standards substantially consistent with those established by the Basel Committee on Banking Supervision would be eligible to request any of the net debit cap categories, but the Reserve Banks would require that such institutions perform a full assessment of creditworthiness if the FBO requests a self-assessed or de minimis net debit cap. Reserve Banks may require a full assessment of creditworthiness if such FBOs are requesting an exempt-from-filing cap.

## Eligibility Criteria for Requesting a Positive Net Debit Cap

Domestic capital category/ FBO PSR capital category	Supervisory rating <sup>63</sup>			
	<i>Strong</i>	<i>Satisfactory</i>	<i>Fair</i>	<i>Marginal or Unsatisfactory</i>
<i>Well capitalized/ Highly capitalized</i>	Eligible	Eligible	Eligible	Ineligible (Zero net debit
<i>Adequately capitalized/ Sufficiently capitalized</i>	Eligible	Eligible	Eligible	Ineligible (Zero net debit
<i>Undercapitalized</i>	May be eligible subject to a full assessment of creditworthiness	May be eligible subject to a full assessment of creditworthiness	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)
<i>Significantly or critically undercapitalized/ Intraday credit</i>	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)

As noted in the eligibility criteria, an institution requesting a “high,” “above average,” or “average” net debit cap, must perform a self-assessment of its creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedures. The Board proposes to clarify in the PSR policy that, if an institution seeks a self-assessed net debit cap, it would be ineligible for a positive net debit cap if its self-assessment results in the lowest possible rating for any one of the four components of the self-assessment in the Guide.

The Board is also proposing revisions to the PSR policy that would clarify the impact of an institution’s holding company’s or affiliate’s supervisory rating on the institution’s eligibility for a positive net debit cap. Currently, an institution can lose its net debit cap if its holding company or affiliate receives a low (marginal or unsatisfactory) supervisory rating. The Board proposes that, if an institution’s holding company or affiliate is assigned a low supervisory rating,<sup>30</sup> the institution would be eligible to request the exempt, de minimis, or average cap

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<sup>30</sup> For this purpose, a low supervisory rating for a holding company would include a Deficient-2 rating in any of the components of the Large Financial Institution (LFI) rating system or an RFI rating of 4 or 5. A low supervisory rating for an affiliate institution would be defined as a CAMELS rating of 4 or 5.

categories but would not be eligible to request the above average or the high self-assessed cap categories. Additionally, Reserve Banks will assign an institution a zero net debit cap if supervisory information of the holding company or affiliated institutions reveals material operating or financial weaknesses that pose significant risks to an institution.

The Board believes that the proposed change would provide greater certainty to institutions and would allow the Reserve Banks to tailor intraday credit access in response to supervisory developments.

### C. Changes to Support the Deployment of the FedNow Service

The Board is proposing changes to the PSR policy and the Overnight Overdrafts policy to align these policies with the deployment of the FedNow Service. The proposed changes would modify the PSR policy to address changes associated with a 24x7x365 payment environment. Currently, intraday credit is available only during the Fedwire Funds Service operating day. The Board recognizes that access to 24x7x365 intraday credit would support the smooth functioning of the FedNow Service. Accordingly, the Reserve Banks will offer intraday credit on a 24x7x365 basis to all FedNow Service participants, including those that use the FedNow Service to send instant payments between end users and users of the FedNow LMT.<sup>31</sup> The Reserve Banks will assess daylight overdraft fees on FedNow Service participants seven days a week, including weekends and holidays. Institutions that settle the FedNow activity of respondents in their master accounts as correspondent banks will be assessed daylight overdraft fees, and therefore will need to manage their account balances to cover respondents' FedNow activity, even if those correspondents do not directly use the FedNow Service.

Reserve Banks expect that FedNow Service participants will manage their master accounts in compliance with Federal Reserve policies. As described further below, FedNow

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<sup>31</sup> See 85 FR 48522, 48531-32. Intraday credit on a 24x7x365 basis will also be available to support participants in a private-sector instant payment service backed by a joint account at a Reserve Bank by enabling transfers between the master accounts of those participants and the joint account.

Service participants will need to avoid negative balances at the close of the business day.

Negative balances not cured by the end of the business day result in overnight overdrafts.

## 1. Definition of “business day”

The Board is proposing to revise section II.A of the PSR policy to define the “business day” as the 24-hour duration beginning immediately after the previous day’s regularly-scheduled close of the Fedwire Funds Service and the FedNow Service, and ending with the regularly-scheduled close of the Fedwire Funds Service and the FedNow Service.<sup>32</sup> The next business day would begin immediately after the scheduled close of the Fedwire Funds Service and the FedNow Service.

Given the continuous, 24-hour nature of the FedNow Service, the opening of the FedNow Service will occur immediately after close. Because FedNow Service participants will have access to intraday credit on a 24-hour basis, the Board believes that daylight overdrafts should be based on a 24-hour business day for all institutions.

## 2. Daylight overdraft and penalty fee calculations

The Board is proposing to revise the daylight overdraft and the penalty fee calculations for all institutions in order to reflect the 24-hour business day. Currently, the daylight overdraft fee is calculated using an annual rate of 50 basis points that is prorated to the scheduled duration of the Fedwire Funds operating day.<sup>33</sup> The Board is proposing to change section II.C of the PSR policy so that the daylight overdraft fee would be based on the 24-hour business day. Due to this proposed change, the effective annual overdraft rate would continue to be 50 basis points, but the

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<sup>32</sup> The business day will align on all calendar days with the regularly scheduled close of the Fedwire Funds and the FedNow Service at 7:00:59 p.m. ET. On weekends and holidays, when the Fedwire Funds Service is closed, the end of the business day would align with the close of the FedNow Service and the regularly scheduled close time of the FedNow Service. The next business day would begin at 7:01:00 p.m. ET.

<sup>33</sup> The Fedwire operating day is currently 22 hours, the effective annual rate is  $(22/24)$  multiplied by 50 basis points, or approximately 0.004583, and the effective daily daylight-overdraft rate based on a 360-day year is  $(0.004583/360)$ , or 0.0000127.

effective daily daylight-overdraft rate would increase from 0.0000127 under the 22-hour business day to 0.0000138 under the 24-hour business day.<sup>34</sup>

Similarly, the Board is proposing to adjust the penalty rate for overdrafts under section II.F of the PSR policy to reflect the 24-hour business day.<sup>35</sup> The annual rate used to determine the daylight-overdraft penalty fee is currently equal to the annual rate applicable to the daylight overdrafts of other institutions (50 basis points) plus 100 basis points, prorated to the length of the scheduled Fedwire Funds operating day. The 150-basis point penalty rate applied to the 24-hour business day would increase the effective daily penalty rate slightly, from 0.0000381 under a 22-hour business day to 0.0000416 under the 24-hour business day.<sup>36</sup>

An institution's daily daylight overdraft charge (or penalty charge) equals the effective daily rate multiplied by the institution's average daily uncollateralized daylight overdraft, which is calculated by dividing the sum of its negative uncollateralized Federal Reserve account balance at the end of each minute by the total number of minutes in the relevant business day. Currently, the relevant business day for this purpose is the Fedwire Funds operating day (1320 minutes under the 22-hour operating day). Under the proposal, the total number of minutes in the relevant business day will increase to 1440 to reflect the 24-hour business day. The increase in the length of the relevant business day from 22 hours to 24 hours will offset in part the increase to the effective daily rate. After accounting for changes to the fee rates and the average

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<sup>34</sup> Under a 24-hour business day, the effective annual daylight-overdraft rate would be (24/24) multiplied by 50 basis points, or 0.0050, and the effective daily daylight-overdraft rate on a 360-day year would be (.0050/360), or 0.0000138.

<sup>35</sup> Certain institutions are subject to a daylight-overdraft penalty fee levied against the average daily daylight overdraft incurred by the institution. These include Edge and agreement corporations, bankers' banks that are not subject to reserve requirements, and limited-purpose trust companies.

<sup>36</sup> Under a 22-hour business day, the effective annual daylight-overdraft penalty rate is (22/24) multiplied by 150 basis points, or 0.002778, and the effective daily daylight-overdraft penalty rate on a 360-day year is (.002778/360), or truncated to 0.0000381. Under a 24-hour business day, the effective annual daylight-overdraft penalty rate will be (24/24) multiplied by 150 basis points, or 0.0150, and the effective daily daylight-overdraft penalty rate on a 360-day year would be (0.0150/360), or 0.0000416.

uncollateralized daylight overdraft calculation, the Board estimates that gross fees before application of fee waivers would increase by less than 0.4 percent with the move from a 22-hour business day to a 24-hour business day.<sup>37</sup>

### 3. New posting rule for FedNow funds transfers

The Board is proposing to add a new posting rule in section II.A of the PSR policy to clarify that, for purposes of measuring daylight overdrafts, debits and credits to an institution's master account for funds transfers over the FedNow Service, including FedNow LMT transfers, would post to an institution's account balance as they are processed throughout the 24-hour business day. In this way, debits and credits to an institution's master account related to transfers over the FedNow Service would be treated equivalently to debits and credits related to transfers over the Fedwire Funds Service, Fedwire Securities Service, and the National Settlement Service.

### 4. Posting certain transactions at the regularly scheduled close of the business day

Currently, section II.A of the PSR policy identifies several transaction types that are processed earlier in the day but “[p]ost after the close of Fedwire Funds Service.”<sup>38</sup> The Board is proposing to revise this posting rule so that these specific transactions would post at the regularly scheduled close of the Fedwire Funds Service and the FedNow Service before the next business day begins. Posting these transactions at the regularly scheduled close of the Fedwire

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<sup>37</sup> Analysis assumes that the size and duration of institutions' daylight overdrafts remains unchanged between a 22-hour and 24-hour operating day. Institutions' gross daily daylight overdraft fees are summed across a two-week reserve maintenance period and then reduced by a fee waiver of \$150, which is primarily intended to minimize the burden of the PSR policy on institutions that use small amounts of intraday credit.

<sup>38</sup> Currently, there are various transactions that post after the close of Fedwire Funds, including currency and coin shipments; noncash collection; term-deposit settlements; Federal Reserve Bank checks presented after 3:00 p.m. eastern time but before 3:00 p.m. local time; foreign check transactions; small-dollar credit corrections and adjustments; term deposit settlements; and all debit corrections and adjustments. Discount-window loans and repayments are normally posted after the close of Fedwire as well; however, in unusual circumstances, a discount window loan may be posted earlier in the day with repayment 24 hours later, or a loan may be repaid before it would otherwise become due.

Funds Service and the FedNow Service would ensure that an institution's account balance is updated before the next business day begins (immediately after the regularly scheduled close of the Fedwire Funds Service and the FedNow Service).

The Board is also proposing to clarify that Fedwire Funds Service and FedNow Service transactions occurring during extensions of the Fedwire Funds Service and the FedNow Service would be backdated so that they post at the regularly scheduled close of the Fedwire Funds and the FedNow Service and not at the end of the extended hours. As a result, a funds transfer occurring during an extension of the Fedwire Funds Service and the FedNow Service would post to an institution's account before the next regularly scheduled business day begins.<sup>39</sup> This practice would ensure that Reserve Banks monitor daylight overdrafts based on a consistent 24-hour business day even on days when the Fedwire Funds and the FedNow Service are extended.

## 5. Changes to the Policy on Overnight Overdrafts

The Board is proposing to incorporate the Overnight Overdrafts policy as part III of the PSR policy. The Board believes that incorporating the Overnight Overdrafts policy into the PSR policy would underscore the close relationship between daylight overdrafts and overnight overdrafts.

The Board is also proposing modifications to simplify the Overnight Overdrafts policy and align the Overnight Overdrafts policy with the deployment of the FedNow Service. The Board is proposing that all institutions would continue to be charged an overnight overdraft penalty fee rate equal to the primary credit rate plus 4 percentage points (annual rate) if its Federal Reserve account has a negative balance at the end of the scheduled business day—that is, at the regularly scheduled close of the FedNow Service.

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<sup>39</sup> The Reserve Banks will continue to use an ex post system to measure daylight overdrafts in institutions' Federal Reserve accounts. As an example, if the close of the Fedwire Funds Service and the FedNow Service is extended from the regularly scheduled close of 7:00:59 p.m. ET to 7:30:59 p.m. ET, a transaction occurring at 7:10 p.m. ET, would post at 7:00 p.m. ET for purposes of measuring daylight overdrafts.

Currently, the penalty fee includes a multiday charge for overnight overdrafts over weekends and holidays. FedNow Service participants that incur an overnight overdraft before a weekend or holiday will have the opportunity to achieve a positive balance before the close of business day on a Saturday, Sunday, or holiday. Accordingly, the Board proposes that a FedNow Service participant would not automatically incur a multiday charge for an overnight overdraft before a weekend or holiday. However, institutions that are not FedNow Service participants and incur an overnight overdraft before a weekend or holiday will not have the opportunity to achieve a positive balance before the end of the weekend or holiday. Accordingly, these institutions would automatically incur a multiday charge for an overnight overdraft before a weekend or holiday.

The Board is proposing to eliminate the fee-escalation feature in the Overnight Overdrafts policy for all institutions. The current Overnight Overdrafts policy includes a fee-escalation feature where the penalty fee for an overnight overdraft increases by one percentage point for each overnight overdraft after an institution has already experienced three overnight overdrafts in a rolling 12-month period. The escalation feature is rarely triggered since overnight overdrafts are uncommon. Additionally, Reserve Banks have other risk-mitigation tools for institutions that incur frequent overnight overdrafts. For example, Reserve Banks can counsel institutions that incur overnight overdrafts (by letter or phone) and, when necessary, can escalate the counseling to an institution's senior management. Reserve Banks also have discretion to remove an institution's access to intraday credit. Accordingly, the Board believes that maintaining the fee-escalation feature once the FedNow Service launches would add unnecessary complexity to the Overnight Overdrafts policy and would not meaningfully reduce risk to the Reserve Banks.

#### **D. Technical Changes to Text of the PSR Policy**

The Board is also proposing technical changes to the PSR policy. First, the Board proposes to revise a sentence in footnote 61 of the PSR policy, which states that, for purposes of

the PSR policy, the Reserve Banks evaluate U.S. branches and agencies of an FBO as a family “because these entities have no existence separate from the FBO.” The Board proposes to amend this provision to state that, because U.S. branches and agencies are part of a single FBO family, all the U.S. offices of FBOs (excluding U.S.-chartered bank subsidiaries and U.S.-chartered Edge subsidiaries) should be treated as a consolidated family relying on the FBO’s capital.

Second, the Board proposes to revise a sentence in footnote 76 of the PSR policy, which discusses the streamlined procedure that highly capitalized FBOs can use to request a max cap. The amendment would clarify that the streamlined procedure is available to “highly capitalized” FBOs, not “well capitalized” FBOs.<sup>40</sup>

### **III. Request for Comment**

The Board is seeking comment on all aspects of the proposed changes. The Board also requests comment on the following specific questions:

1. Would the proposed changes help to clarify the conditions for maintaining access to intraday credit for purposes of your institution’s liquidity planning and risk management efforts?
2. If the Board were to adopt the proposed simplifications to the procedure for requesting a max cap, should the Board eliminate the existing streamlined process for FBOs to request a max cap in section II.E.2 of the PSR policy? If not, how would FBOs continue to benefit from the streamlined process in section II.E.2?
3. Should the supervisory ratings of an institution’s holding company and affiliate(s) continue, as proposed, to be key factors in a Reserve Bank’s evaluation of whether an institution is eligible for uncollateralized intraday credit?

### **IV. Regulatory Flexibility Act**

Congress enacted the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) to address concerns related to the effects of agency rules on small entities, and the Board is sensitive to the impact its rules may impose on small entities. The RFA requires agencies either to provide an

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<sup>40</sup> Generally, the “highly capitalized” FBO capital category corresponds to the “well capitalized” PCA designation for domestic institutions. See n. 63 of the PSR policy.

initial regulatory flexibility analysis with a proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. While the Board does not believe that the proposed changes would have a significant impact on small entities, and regardless of whether the RFA applies to the PSR policy per se, the Board has nevertheless prepared the following Initial Regulatory Flexibility analysis in accordance with 5 U.S.C. 603. The Board requests public comments on all aspects of this analysis.

*1. Statement of the need for, objectives of, and legal basis for, the proposed rule.*

Section 11(j) of the Federal Reserve Act<sup>41</sup> authorizes the Board to oversee the Reserve Banks' provision of intraday credit to Reserve Bank account holders. The Board is issuing this proposal to better align the PSR policy with the Board's objectives to reduce the reliance of the banking industry on uncollateralized intraday credit while ensuring the smooth operation of payment and settlement systems. The Board is also proposing changes that would support the deployment of the FedNow Service.

*2. Small entities affected by the proposed rule.* Pursuant to regulations issued by the Small Business Administration (SBA) (13 CFR 121.201), a "small entity" includes an entity that engages in commercial banking and has assets of \$600 million or less (NAICS code 522110). As of January 2021, nearly 3,200 institutions that maintain Federal Reserve accounts are small entities. Approximately 3,000 of those institutions maintain positive net debit caps. However, none of these institutions currently have a max cap. The proposal would only affect those entities, regardless of size, that choose to request additional collateralized capacity beyond their uncollateralized net debit cap. The proposed changes would clarify, but would not alter, institutions' eligibility to request and maintain net debit caps.

*3. Projected reporting, recordkeeping, and other compliance requirements.* The proposed changes would alter the procedures by which institutions obtain collateralized intraday

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<sup>41</sup> 12 U.S.C. 248(j).

credit from the Reserve Banks. As described above, the proposed changes would expand access to collateralized capacity, and would simplify and reduce the administrative steps associated with obtaining and keeping collateralized capacity. If an institution requests collateralized capacity for the first time or requests an increase in its collateralized capacity, it would need to submit a resolution from its board of directors. Generally, an institution would not need to provide a business case justifying its request for collateralized capacity, nor would it need to obtain a self-assessed net debit cap before it can request collateralized capacity.

4. *Identification of duplicative, overlapping, or conflicting Federal rules.* The Board has not identified any Federal rules that duplicate, overlap with, or conflict with the proposed changes to the PSR policy.

5. *Significant alternatives.* The Board does not believe that alternatives to the proposed changes would better accomplish the objectives of limiting credit risk to the Reserve Banks while minimizing the economic impact on small entities, but the Board welcomes comments on potential alternatives.

## **V. Competitive Impact Analysis**

When considering changes to an existing service, the Board conducts a competitive impact analysis to determine whether there will be a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or the Federal Reserve's dominant market position deriving from such legal differences.<sup>42</sup> The Board believes that there would be no adverse effects to other service providers resulting from the proposed changes to the PSR policy and the Overnight Overdrafts policy. While the proposed changes could provide institutions with additional collateralized intraday credit in their Federal Reserve accounts, as well as access to

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<sup>42</sup> See The Federal Reserve in the Payments System (issued 1984; revised 1990), Federal Reserve Regulatory Service 9-1558.

uncollateralized intraday credit on a 24x7x365 basis, institutions could use this credit to fund payments activity using private-sector or Reserve Bank services, at their discretion.

### **III. Paperwork Reduction Act**

In accordance with section 3512 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number is 7100-0217. The Board reviewed the PSR policy changes it is considering under the authority delegated to the Board by the OMB. Comments are invited on:

- (a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;
- (b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection technique or other forms of information technology; and
- (e) Estimates of the capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer: by mail to U.S. Office of Management and Budget, 725 17th Street NW., # 10235, Washington, DC 20503; by facsimile to (202) 395-5806; or by email to: [aira\\_submission@omb.eop.gov](mailto:aira_submission@omb.eop.gov), Attention, Federal Banking Agency Desk Officer.

*Proposed Revisions, With Extension for Three Years, of the Following Information Collection:*

*(1) Title of Information Collection:* Annual Report of Net Debit Cap.

*Agency Form Number:* FR 2226

*OMB Control Number:* 7100-0217

*Frequency of Response:* Annually.

*Respondents:* Institutions' boards of directors.

*Abstract:* Federal Reserve Banks collect these data annually to provide information that is essential for their administration of the Board's Payment System Risk (PSR) policy. The reporting panel includes all financial institutions with access to the discount window that are eligible to request intraday credit. The Report of Net Debit Cap comprises three resolutions, which are filed by an institution's board of directors depending on its needs. The first resolution is used to establish a de minimis net debit cap and the second resolution is used to establish a self-assessed net debit cap.<sup>43</sup> The third resolution is used to establish simultaneously a self-assessed net debit cap and maximum daylight overdraft capacity.

*Current Actions:* Currently, institutions with a self-assessed net debit cap may file the third resolution in order to obtain collateralized capacity under the max cap program. The proposed changes to the PSR policy would expand access to collateralized capacity under the max cap program to include all domestic institutions with a PCA designation of undercapitalized, adequately capitalized, or well capitalized. The proposed changes would also expand access to collateralized capacity under the max cap program to include all FBOs with an FBO PSR category of undercapitalized, sufficiently capitalized, or highly capitalized. Finally, the proposed changes would eliminate the requirements that an institution provide (i) a business case outlining

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<sup>43</sup> Institutions use these two resolutions to establish a capacity for daylight overdrafts above the lesser of \$10 million or 20 percent of the institution's capital measure. Financially-healthy U.S. chartered institutions that rarely incur daylight overdrafts in excess of the lesser of \$10 million or 20 percent of the institution's capital measure do not need to file board of directors resolutions or self-assessments with their Reserve Bank.

its need for collateralized capacity and (ii) an annual board of directors resolution approving its collateralized capacity. In order to facilitate these proposed changes to the PSR policy, the third resolution would be amended so that an eligible institution could request collateralized capacity regardless of whether the institution has a self-assessed net debit cap. The proposed revision would not increase the estimated average hours per response to FR 2226 but would likely expand the estimated number of respondents requesting collateralized capacity under the max cap program.

*Estimated number of respondents:* De Minimis Cap: Non-FBOs, 893 respondents and FBOs, 18 respondents; Self-Assessment Cap: Non-FBOs, 106 respondents and FBOs, 9 respondents; and Maximum Daylight Overdraft Capacity, 59 respondents.

*Estimated average hours per response:* De Minimis Cap – Non-FBOs, 1 hour and FBOs, 1.5 hour; Self-Assessment Cap – Non-FBOs, 1 hour and FBOs, 1.5 hours, and Maximum Daylight Overdraft Capacity, 1 hour.

*Estimated annual burden hours:* De Minimis Cap: Non-FBOs, 893 hours and FBOs, 27 hours; Self-Assessment Cap: Non-FBOs, 106 hours and FBOs, 13.5 hours; and Maximum Daylight Overdraft Capacity, 59 hours.

The following portion titled “**Federal Reserve Policy on Payment System Risk**” will not publish in the Code of Federal Regulations.

## Federal Reserve Policy on Payment System Risk

### *Revisions to section II.A of the PSR policy*

The Board proposes to revise section II.A of the PSR policy as follows:

#### **A. Daylight overdraft definition and measurement**

A daylight overdraft occurs when an institution's Federal Reserve account is in a negative position during the business day.<sup>33</sup> The Reserve Banks use an ex post system to measure daylight overdrafts in institutions' Federal Reserve accounts. Under this ex post measurement system, certain transactions, including Fedwire funds transfers, FedNow funds transfers, book-entry securities transfers, and net settlement transactions are posted as they are processed during the business day. Other transactions, including ACH and check transactions, are posted to institutions' accounts according to a defined schedule.

The following table presents the schedule used by the Federal Reserve for posting transactions to institutions' accounts for purposes of measuring daylight overdrafts.

<sup>33</sup> For purposes of measuring daylight overdrafts, the business day is the 24-hour period of time that begins immediately after the regularly-scheduled close of the Fedwire Funds Service (on days when the Fedwire Funds Service is open) and the FedNow Service (on all days, including weekends and holidays).

#### ***Procedures for measuring daylight overdrafts***<sup>34</sup>

##### **Opening balance (previous business day's closing balance)**

Post throughout the business day:

- +/- FedNow funds transfers
- +/- Fedwire funds transfers<sup>35</sup>
- +/- Fedwire book-entry securities transfers
- +/- National Settlement Service entries.
- + Fedwire book-entry interest and redemption payments on securities that are not obligations of, or fully guaranteed as to principal and interest by, the United States<sup>36</sup>
- + Electronic payments for matured coupons and definitive securities that are not obligations of, or fully guaranteed as to principal and interest by, the United States.<sup>37</sup>

<sup>34</sup> This schedule of posting rules does not affect the overdraft restrictions and overdraft measurement provisions for nonbanks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

<sup>35</sup> Funds transfers that the Reserve Banks function for certain international organizations using internal systems other than payment processing systems such as Fedwire will be posted throughout the business day for purposes of measuring daylight overdrafts.

<sup>36</sup> The GSEs include Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), entities of the Federal Home Loan Bank System (FHLBS), the Farm Credit System, the Federal Agricultural Mortgage Corporation (Farmer Mac), the Student Loan Marketing Association (Sallie Mae), the Financing Corporation, and the Resolution Funding Corporation. The international organizations include the World Bank, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank. The Student Loan Marketing Association Reorganization Act of 1996 requires Sallie Mae to be completely privatized by 2008; however, Sallie Mae completed privatization at the end of 2004. The Reserve Banks no longer act as fiscal agents for new issues of Sallie Mae securities, and Sallie Mae is not considered a GSE.

The term "interest and redemption payments" refers to payments of principal, interest, and redemption on securities maintained on the Fedwire Securities Service.

The Reserve Banks will post these transactions, as directed by the issuer, provided that the issuer's Federal Reserve account contains funds equal to or in excess of the amount of the interest and redemption payments to be made. In the normal course, if a Reserve Bank does not receive funding from an issuer for the issuer's interest and redemption payments by the established cut-off hour of 4:00 p.m. eastern time on the Fedwire Securities Service, the issuer's payments will not be processed on that day.

<sup>37</sup> Electronic payments for credits on these securities will post according to the posting rules for the mechanism through which they are processed, as outlined in this policy. However, the majority of these payments are made by check and will be posted according to the established check posting rules as set forth in this policy.

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Post at the close of the Fedwire Funds Service and the FedNow Service<sup>51</sup>

+/- All other transactions. These transactions include the following: currency and coin shipments; noncash collection; term-deposit settlements; Federal Reserve Bank checks presented after 3:00 p.m. eastern time but before 3:00 p.m. local time; foreign check transactions; small-dollar credit corrections and adjustments; term deposit settlements; and all debit corrections and adjustments. Discount-window loans and repayments are normally posted after the close of the Fedwire Funds Service as well; however, in unusual circumstances a discount window loan may be posted earlier in the day with repayment 24 hours later, or a loan may be repaid before it would otherwise become due.

<sup>51</sup> The posting of transactions that occur during extensions of the Fedwire Funds Service and the FedNow Service will be backdated to the regularly scheduled close of the Fedwire Funds Service and the FedNow Service.

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*Revisions to section II.C of the PSR policy*

The Board proposes to revise section II.C, paragraphs 3 and 4 of the “Federal Reserve Policy on Payment System Risk” as follows:

**C. Pricing**

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Daylight overdraft fees for uncollateralized overdrafts (or the uncollateralized portion of a partially collateralized overdraft) are calculated using an annual rate of 50 basis points, quoted on the basis of a 24-hour day and a 360-day year. The effective daily rate equals the annual rate divided by 360.<sup>57</sup> An institution’s daily daylight overdraft charge is equal to the effective daily rate multiplied by the institution’s average daily uncollateralized daylight overdraft.

An institution’s average daily uncollateralized daylight overdraft is calculated by dividing the sum of its negative uncollateralized Federal Reserve account balances at the end of each minute of the regularly scheduled business day by the total number of minutes in the 24-hour business day. A negative uncollateralized Federal Reserve account balance is calculated by subtracting the unencumbered, net lendable value of collateral pledged from the total negative Federal Reserve account balance at the end of each minute. Each positive end-of-minute balance in an institution’s Federal Reserve account is set to equal zero. Fully collateralized end-of-minute negative balances are similarly set to zero.

<sup>57</sup> The effective daily daylight-overdraft rate is truncated to 0.0000138.

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*Revisions to section II.D of the PSR policy*

The Board proposes to revise section II.D of the “Federal Reserve Policy on Payment System Risk” as follows:

**II. D. Net debit caps (uncollateralized intraday credit capacity)**

Each institution incurring uncollateralized daylight overdrafts in its

Federal Reserve account must adopt a net debit cap, that is, a ceiling on the total uncollateralized daylight overdraft position that it can incur during any given day.

An institution's cap category and capital measure determine the size of its net debit cap. Specifically, the net debit cap is calculated as an institution's cap multiple times its capital measure:

$$\text{net debit cap} = \\ \text{cap multiple} \times \text{capital measure}$$

Cap categories and their associated cap levels, set as multiples of an institution's capital measure, are listed below:

**Net Debit Cap Multiples**

<u>Cap category</u>	<u>Cap multiple</u>
High	2.25
Above average	1.875
Average	1.125
De minimis	0.4
Exempt-from-filing <sup>60</sup>	\$10 million or 0.20
Zero	0

<sup>60</sup> The net debit cap for the exempt-from-filing category is equal to the lesser of \$10 million or 0.20 multiplied by the capital measure.

Pledging collateral does not increase an institution's net debit cap, although certain institutions may be eligible to obtain additional collateralized capacity in excess of their net debit caps (see section II.E). For the treatment of overdrafts that exceed the net debit cap, see section II.G.

While capital measures differ, the net debit cap provisions of this policy apply similarly to foreign banking organizations (FBOs) as to U.S. institutions. Consistent with practices for U.S.-chartered depository institutions, the Reserve Banks will advise home-country supervisors of the daylight overdraft capacity of U.S. branches and agencies of FBOs under their jurisdiction, as well as of other pertinent information related to the FBOs' caps. The Reserve Banks will also provide information on the daylight overdrafts

in the Federal Reserve accounts of FBOs' U.S. branches and agencies in response to requests from home-country supervisors.

### 1. *Eligibility*

An institution must have regular access to the discount window in order to adopt a net debit cap greater than zero. Granting a net debit cap, or any extension of intraday credit, to an institution is at the discretion of the Reserve Bank. As detailed in the following matrix, an institution's eligibility to adopt and maintain a positive net debit cap depends on the institution's creditworthiness as determined by (1) its Prompt Corrective Action (PCA) designation<sup>61</sup> or FBO PSR capital category,<sup>62</sup> and (2) the supervisory rating.

<sup>61</sup> An insured depository institution is (1) "well capitalized" if it significantly exceeds the required minimum level for each relevant capital measure, (2) "adequately capitalized" if it meets the required minimum level for each relevant capital measure, (3) "undercapitalized" if it fails to meet the required minimum level for any relevant capital measure, (4) "significantly undercapitalized" if it is significantly below the required minimum level for any relevant capital measure, or (5) "critically undercapitalized" if it fails to meet any leverage limit (the ratio of tangible equity to total assets) specified by the appropriate federal banking agency, in consultation with the FDIC, or any other relevant capital measure established by the agency to determine when an institution is critically undercapitalized (12 U.S.C. 1831o).

<sup>62</sup> The four FBO PSR capital categories for FBOs are "highly capitalized," "sufficiently capitalized," "undercapitalized," and "intraday credit ineligible." To determine whether it is highly capitalized or sufficiently capitalized, an FBO should compare its risk-based capital ratios to the corresponding ratios in Regulation H for well-capitalized and adequately capitalized banks. 12 CFR 208.43(b). Additionally, an FBO must have a leverage ratio of 4 percent or 3 percent (calculated under home-country standards) to qualify as, respectively, highly capitalized or sufficiently capitalized. To determine whether it is undercapitalized, an FBO would compare its risk-based capital ratios to the corresponding ratios in Regulation H. Additionally, an FBO would be deemed undercapitalized if its home-country leverage ratio is less than 3 percent. Finally, to determine whether it is intraday credit ineligible, an FBO should compare its risk-based capital ratios to the corresponding ratios in Regulation H for significantly undercapitalized banks. Additionally, an FBO would be deemed intraday credit ineligible if its home-country leverage ratio is less than 2 percent.

**Eligibility Criteria for Requesting a Positive Net Debit Cap**

<b>Domestic capital category/ FBO PSR capital category</b>	<b>Supervisory rating<sup>63</sup></b>			
	<i>Strong</i>	<i>Satisfactory</i>	<i>Fair</i>	<i>Marginal or Unsatisfactory</i>
<i>Well capitalized/ Highly capitalized</i>	Eligible	Eligible	Eligible	Ineligible (Zero net debit)
<i>Adequately capitalized/ Sufficiently capitalized</i>	Eligible	Eligible	Eligible	Ineligible (Zero net debit)

<i>Undercapitalized</i>	May be eligible subject to a full assessment of creditworthiness	May be eligible subject to a full assessment of creditworthiness	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)
<i>Significantly or critically undercapitalized/ Intraday credit ineligible</i>	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)

<sup>63</sup> Supervisory composite ratings, such as the Uniform Bank Rating System (CAMELS) and the RFI Rating System, are generally assigned on a scale from 1 to 5, with 1 being the strongest rating. Thus, a supervisory rating of 1 is considered Strong, a rating of 2 is considered Satisfactory, a rating of 3 is considered Fair, a rating of 4 is considered Marginal, and a rating of 5 is considered Unsatisfactory. An institution will not be eligible for uncollateralized capacity if a supervisory agency assigns a Marginal or Unsatisfactory supervisory rating to the institution. If an institution's holding company has been assigned a Deficient-2 rating in any of the components of the Large Financial Institution (LFI) rating system or an RFI rating of 4 or 5, the institution will not be eligible to request the above average and high self-assessed net debit caps but may be eligible for a lower net debit cap. Similarly, if an institution's affiliates are assigned a Marginal or Unsatisfactory supervisory rating, the institution will not be eligible to request the above average and high self-assessed net debit caps but may be eligible for a lower net debit cap. Reserve Banks will assign an institution a zero net debit cap if supervisory information of the holding company and affiliated institutions reveals material operating or financial weaknesses that pose significant risks to the institution.

As described further in section II.D.2.a, an institution seeking to establish a net debit cap category of high, above average, or average must perform a self-assessment of its own creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedure. An institution that performs a self-assessment will be deemed ineligible for a positive net debit cap if its self-assessment results in the lowest possible rating for any one of the four components of the self-assessment process.

## 2. *Cap categories*

\* \* \*

### a. **Self-assessed**

In order to establish a net debit cap category of high, above average, or average, an institution must perform a self-assessment of its own creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedures.<sup>64</sup> For domestic institutions, the assessment of creditworthiness is based on the institution's supervisory rating and PCA designation.<sup>65</sup> For U.S. branches and agencies of FBOs that are based in jurisdictions that have implemented capital

standards substantially consistent with those established by the Basel Committee on Banking Supervision, the assessment of creditworthiness is based on the institution's supervisory rating and its FBO PSR capital category.<sup>66</sup> An institution may perform a full assessment of its creditworthiness in certain limited circumstances—for example, if its condition has changed significantly since its last examination or if it possesses additional substantive information regarding its financial condition. Additionally, U.S. branches and agencies of FBOs based in jurisdictions that have not implemented capital standards substantially consistent with those established by the Basel Committee on Banking Supervision are required to perform a full assessment of creditworthiness to determine their ratings for the creditworthiness component. An institution performing a self-assessment must also evaluate its intraday funds-management procedures and its procedures for evaluating the financial condition of and establishing intraday credit limits for its customers. Finally, the institution must evaluate its operating controls and contingency procedures to determine if they are sufficient to prevent losses due to fraud or system failures. The Guide includes a detailed explanation of the self-assessment process. \* \* \*

<sup>64</sup> This assessment should be done on an individual-institution basis, treating as separate entities each commercial bank, each Edge corporation (and its branches), each thrift institution, and so on. An exception is made in the case of U.S. branches and agencies of FBOs. Because these entities are part of a single FBO family, all the U.S. offices of FBOs (excluding U.S.-chartered bank subsidiaries and U.S.-chartered Edge subsidiaries) should be treated as a consolidated family relying on the FBO's capital.

<sup>65</sup> See n. 61 *supra*.

<sup>66</sup> See n. 62 *supra*.

\* \* \* \* \*

#### **d. Zero**

Some institutions that could obtain positive net debit caps choose to have zero caps. Often these institutions have very conservative internal policies regarding the use of Federal Reserve intraday credit. If an institution that has

adopted a zero cap incurs a daylight overdraft, the Reserve Bank counsels the institution and may monitor the institution's activity in real time and reject or delay certain transactions that would cause an overdraft. If the institution qualifies for a positive cap, the Reserve Bank may suggest that the institution adopt an exempt-from-filing cap or file for a higher cap if the institution believes that it will continue to incur daylight overdrafts or overdrafts in excess of its assigned cap limit.

In addition, a Reserve Bank may assign an institution a zero net debit cap. Institutions that may pose special risks to the Reserve Banks, such as those without regular access to the discount window, those incurring daylight overdrafts in violation of this policy, those that are ineligible for intraday credit based on their supervisory rating and PCA designation/FBO PSR capital category (see section II.A), or those that are otherwise in weak financial condition are generally assigned a zero cap (see section II.F). Recently chartered institutions may also be assigned a zero net debit cap.

Certain institutions with zero caps, including institutions that have been involuntarily assigned a zero cap by a Reserve Bank, may be eligible to request collateralized capacity from their Reserve Bank (see sections II.E). \* \* \*

\* \* \* \* \*

#### *Revisions to section II.E of the PSR policy*

The Board proposes to revise section II.E of the "Federal Reserve Policy on Payment System Risk" as follows:

#### **E. Collateralized intraday credit capacity**

Subject to the approval of its administrative Reserve Bank, an eligible institution may pledge collateral to secure collateralized daylight overdraft capacity in addition to uncollateralized capacity from its net debit cap.<sup>74</sup> The resulting combination of

uncollateralized and collateralized capacity is known as the maximum daylight overdraft capacity (max cap) and is defined as follows:

$$\begin{aligned} \text{maximum daylight overdraft capacity} = \\ \text{net debit cap} + \\ \text{collateralized capacity.}^{75} \end{aligned}$$

Once approved, the Reserve Bank will monitor the institution to ensure that it does not exceed its max cap. Pledging less collateral reduces an institution's effective maximum daylight overdraft capacity level, but pledging more collateral does not increase the maximum daylight overdraft capacity above the approved max cap level.

### ***1. Eligibility***

An institution that wishes to expand its daylight overdraft capacity by pledging collateral should consult with its administrative Reserve Bank. A domestic institution is eligible to request collateralized intraday credit if its PCA designation is “undercapitalized,” “adequately capitalized,” or “well capitalized.”<sup>76</sup> Similarly, an FBO is eligible to request collateralized intraday credit if its FBO PSR capital category is “undercapitalized,” “sufficiently capitalized,” or “highly capitalized.”<sup>77</sup> Provided that it meets these capitalization requirements, an institution is eligible to request collateralized capacity even if the institution is not eligible to adopt a positive net debit cap (see section II.D.1).

<sup>74</sup> The administrative Reserve Bank is responsible for the administration of Federal Reserve credit, reserves, and risk-management policies for a given institution. All collateral must be acceptable to the administrative Reserve Bank. The Reserve Bank may, at its discretion, accept securities in transit on the Fedwire Securities Service as collateral to support the maximum daylight overdraft capacity level. Collateral eligibility and

margins are the same for PSR policy purposes as for the discount window. See <http://www.frbdiscountwindow.org/> for information.

<sup>75</sup> Collateralized capacity, on any given day, equals the amount of collateral pledged to the Reserve Bank, not to exceed the difference between the institution's maximum daylight overdraft capacity level and its net debit cap in the given reserve maintenance period.

<sup>76</sup> See n. 61, *supra*.

<sup>77</sup> See n. 62, *supra*.

## ***2. General procedure for requesting collateralized capacity***

If an institution is requesting collateralized capacity for the first time, it must submit a resolution from its board of directors indicating its board's approval of the requested max cap. Increases to collateralized capacity previously approved by Reserve Banks will also require a board of directors resolution. In most cases, an institution will not have to provide to a Reserve Bank a business case justifying its request for collateralized capacity. However, an institution must provide a business-case justification if:

- The institution requests a max cap in excess of its capital measure multiplied by 2.25; or
- The administrative Reserve Bank exercises discretion to require that the institution submit a business-case justification due to recent developments in the institution's condition.

Once a Reserve Bank has approved an institution's collateralized capacity, the collateralized capacity will remain in place, without the need for further action by the institution, provided that the institution maintains the eligibility standards outlined above.

## ***3. Streamlined procedure for certain FBOs***

An FBO that is highly capitalized<sup>78</sup> and has a self-assessed net debit cap may request from its Reserve Bank a streamlined procedure to obtain a maximum daylight overdraft capacity. These FBOs are not required to provide documentation of the business case or obtain a board of directors resolution for

collateralized capacity in an amount that exceeds its current net debit cap (which is based on 10 percent worldwide capital times its cap multiple), as long as the requested total capacity is 100 percent or less of worldwide capital times a self-assessed cap multiple.<sup>79</sup> In order to ensure that intraday liquidity risk is managed appropriately and that the FBO will be able to repay daylight overdrafts, eligible FBOs under the streamlined procedure will be subject to an initial and periodic review of liquidity plans that are analogous to the liquidity reviews undergone by U.S. institutions.<sup>80</sup> If an eligible FBO requests capacity in excess of 100 percent of worldwide capital times the self-assessed cap multiple, it would be subject to the general procedure.

<sup>78</sup> See n. 62, *supra*.

<sup>79</sup> For example, an FBO that is highly capitalized is eligible for uncollateralized capacity of 10 percent of worldwide capital times the cap multiple. The streamlined collateralized capacity procedure would provide such an institution with additional collateralized capacity of 90 percent of worldwide capital times the cap multiple. As noted above, FBOs report their worldwide capital on the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225).

<sup>80</sup> The liquidity reviews will be conducted by the administrative Reserve Bank, in consultation with each FBO's home country supervisor.

\* \* \* \* \*

#### *Revisions to section II.F of the PSR policy*

The Board proposes to revise section II.F, paragraphs 3 and 4 of the “Federal Reserve Policy on Payment System Risk” as follows:

#### **F. Special Situations**

Certain institutions are subject to a daylight-overdraft penalty fee levied against the average daily daylight overdraft incurred by the institution. These include Edge and agreement corporations, bankers' banks that are not subject to reserve requirements, and limited-purpose trust companies. The annual rate used to determine the daylight-overdraft penalty fee is equal to the annual rate applicable to the daylight overdrafts of other

institutions (50 basis points) plus 100 basis points. The effective daily overdraft penalty rate equals the annual penalty rate divided by 360.<sup>81</sup> The daylight-overdraft penalty rate applies to the institution's daily average daylight overdraft in its Federal Reserve account. The daylight-overdraft penalty fee for these institutions is charged in lieu of, not in addition to, the daylight overdraft fee that applies to other institutions.

<sup>81</sup> The effective daily daylight-overdraft penalty rate is truncated to 0.0000416.

\* \* \* \* \*

*Add Part III. Policy on Overnight Overdrafts as follows:*

### **PART III. POLICY ON OVERNIGHT OVERDRAFTS**

An overnight overdraft is a negative balance in a Federal Reserve account at the close of the business day. The Board expects institutions to avoid overnight overdrafts.

To minimize the Reserve Banks' exposure to overnight overdrafts, which are not always collateralized, the Board authorizes Reserve Banks to discourage depository institutions from incurring overnight overdrafts by charging a penalty fee. Institutions that do not extinguish their daylight overdrafts and incur overnight overdrafts are subject to ex post counseling in addition to a penalty fee.

The Board establishes the following penalty rate structure for overnight overdrafts:

1. An overnight overdraft penalty rate of the primary credit rate plus 4 percentage points (annual rate).
2. A minimum penalty fee of 100 dollars, regardless of the amount of the overnight overdraft. The minimum fee is administered per each occasion.
3. A charge for each calendar day (including weekends and holidays) that an overnight overdraft is outstanding.

<sup>92</sup> See n. 33, which defines the term "business day" for this purpose.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

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